UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AMERICAN UNIVERSITY OF ANTIGUA COLLEGE
OF MEDICINE, a foreign corporation,

        Plaintiff,

                                        United States District Court Judge
                                        Patrick J. Duggan, presiding
                                        Michael Hluchaniuk, referral

V   Case No.: 2:10-cv-10978

STEVEN L. WOODWARD,

        Defendant.

Eric A. Buikema (P58379) CARDELLI, LANFEAR & BUIKEMA, P.C. Attorneys for Plaintiff 322 W. Lincoln Royal Oak, MI 48067 (248) 544-1100 ebuikema@cardellilaw.com	STEVEN L. WOODWARD In Pro Per c/o 7211 Brittwood Lane Flint, MI 48507 Steve_L_woodward@yahoo.com

REPLY IN SUPPORT OF MOTION TO QUASH SUBPOENAS (Docket No. 104)

Plaintiff American University of Antigua College of Medicine ("AUA"), through counsel Supplements its Motion to Quash (Docket No. 104) and its supplement (Docket No. 109) as follows:

1.   As a threshold matter, Defendant has not responded to the request to quash the subpoenas to the ECFMG and Sallie Mae (Docket Nos. 104-3 and 109-2). As such, he apparently does not contest the fact that these subpoenas must be quashed.

2.   **Defendant's Jurisdiction Argument:** Defendant conflates the concepts of personal jurisdiction (sufficient for suit) and jurisdiction over a subpoena deponent under Fed. R.

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Civ. P. 45. The latter is far more stringent than the former's "minimum contacts" and "purposeful availment" requirements. As Defendant did not follow the appropriate procedures to obtain jurisdiction over the NBME, the instant subpoena is void and should be quashed. Defendant's associated Motion to Compel (Docket No. 102) should properly be denied.

3. **Privacy Concerns.** Defendant argues that he needs the instant data to refute Plaintiffs published Pass Rate. However he's established no grounds for needing the private, confidential student data rather than aggregate data.

4. **Undue Burden.** Defendant somehow argues that because the NBME collects this data that it does not pose an undue burden to produce the same. This is a misunderstanding of the "undue burden" requirement of Fed. R. Civ. P. 45(c)(1). Here Defendant seeks to have the deponent generate unique data in order to respond to the subpoena. This goes beyond the subpoena power. Similarly, the data requested involves the student data of 152 students collected over the course of seven years.

5. **Protective Order and Bond.** Defendant's response makes clear that he seeks "Confirmation and Validation of **Private Student Grades...**" (Docket No. 110 at 2). To the extent that the Court is willing to allow the instant subpoena to proceed, it should enter a protective order requiring releases from all students whose data is to be released (or redactions of personally identifying information) and Defendant should be ordered to pay all of the deponents' costs incurred associated with the production of this voluminous data including reasonable attorney fees. Fed. R. Civ. P. 45(c)(1). Similarly, the Court should order Defendant to post a bond for any liabilities sustained by the deponents arising out of the production of these documents.

Wherefore, for the reasons stated in Plaintiff's Motion to Quash (Docket No. 104) and supplement (Docket No. 109), Plaintiff moves for an order quashing Defendant's subpoenas to the NBME, ECFMG, Sallie Mae, and any other subpoena issued without service on Plaintiff.

Respectfully Submitted,

/s/ Eric A. Buikema (P58379)
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Reply in Support of Motion to Quash Subpoenas (Docket No. 104) and this Certificate of Service were served upon Steven L. Woodward, Defendant, via his email address Steve_L_woodward@yahoo.com and First Class U.S. mail to Steven Woodward, c/o 7211 Brittwood Lane, Flint, MI 48507 on March 9, 2011.

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